IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.26258-M of 2007
Date of Decision:- 09.07.2007

Rajiv Sharma ....Petitioner(s)

through
Mr.Mandeep Kaushi, Advocate and
Ms.Anju Sharma, Advocate.

vs.

State of Punjab ....Respondent(s)

through
Mr.K.S.Pannu, AAG, Punjab.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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1) Whether Reporters of the local papers may be allowed to see the judgment?
2) To be referred to the Reporters or not?
3) Whether the judgment should be reported in the Digest?

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SURYA KANT, J. (ORAL)

The prayer in this petition is to release the petitioner on regular bail in case F.I.R.No.147 dated 30.8.2005 under Sections 376, 506 IPC registered at Police Station, Model Town, Ludhiana.

The above-stated F.I.R.has been registered on a statement made by Smt.Sarabjit Kaur, who is alleged to have stated that her husband had expired about 3 years back and when she reached at Bus Stand, Ludhiana on the date of occurrence for some personal work, the petitioner who was riding a motor-cycle met her and promised her to provide some job on payment of Rs.1,000/-. The complainant allegedly accompanied the motor-cyclist who took her to a shop owned by one Sanjeev Sharma. There was some more persons also sitting in the shop and five of them are alleged to have put the shutter of the shop down and forcibly raped the complainant.

As per the complainant, she was about 40 years of age and mother of four children, however, as per the Radiologist opinion, she is more than 19 years of age.

The petitioner is amongst those five persons against whom the allegations of committing rape have been levelled by the complainant. The petitioner was arrested on 31.8.2005 and is in custody since then.

Admittedly, the learned trial Court has given more than 9 opportunities to the prosecution to produce the prosecutrix as a witness, who, however, has not turned up till date.

It is stated by learned State counsel that whereabouts of the complainant-prosecutrix are not known.

The petitioner's co-accused have already been released on bail.

After hearing learned counsel for the parties and without expressing any views on the merits of the case lest it should prejudice either of them and having regard to the period already spent by the petitioner in custody, this petition is allowed. The petitioner is directed to be released on bail to the satisfaction of the Chief Judicial Magistrate, Ludhiana.

July 09, 2007 **(SURYA KANT)**
poonam **JUDGE**